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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FOUR

In re ALEXANDER R., a Person Coming
Under the Juvenile Court Law.

B245319

(Los Angeles County
Super. Ct. No. CK95422)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN AND
FAMILY SERVICES,

Plaintiff and Respondent,

v.

REBECCA R.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles County, Terry Truong, Juvenile Court Referee. Affirmed.

Leslie A. Barry, under appointment by the Court of Appeal, for Defendant and Appellant.

John F. Krattli, County Counsel, James M. Owens, Assistant County Counsel, and Sarah Vesecky, Deputy County Counsel, for Plaintiff and Respondent.

Rebecca R. (mother) appeals from the order declaring her son, Alexander, to be a dependent of the court pursuant to Welfare and Institutions Code section 300, subdivision (c).¹ We affirm.

FACTUAL AND PROCEDURAL BACKGROUND

On August 8, 2012, a referral was received by Child Protective Services alleging that Alexander (born Dec. 2001) was the victim of emotional abuse by mother and mother's daughter, Alyssa, was "at risk."² The reporting party stated that Alexander had been admitted to BHC Alhambra Hospital. He was diagnosed with mood disorder. Alexander told the attending physician that he had "thoughts to hurt myself and hit myself," with a plan to use a knife or strike himself in the face. Alexander presented with "increased aggression with his sibling suicidal ideations." The reporting party also said Alexander had previously been diagnosed with posttraumatic stress syndrome and has had "[b]outs of [e]xplosions." There were also allegations that mother failed to ensure Alexander took his prescribed medication and that due to mother's ongoing abuse and neglect, Alexander was not displaying any improvement. Previously, in May 2012, Alexander was taken to BHC Alhambra Hospital after he said he wanted to kill his classmates and teacher.

On August 9, Children's Social Worker (CSW) Shilling interviewed Alexander at the hospital. He stated that he gets angry quickly, especially when mother yells at him. When she does, Alexander responds by hitting her. He was sad about hitting mother and told her he wanted to kill himself. He admitted he said this to mother often.

On August 21, 2012, Schilling spoke to Alexander's psychiatrist, Dr. Marie Troung. The doctor stated, "I have noticed [mother] is very critical of [Alexander]. Like even within walking 50 [feet] into my office she is just constantly criticizing him like,

¹ All further statutory references are to the Welfare and Institutions Code.

² Alyssa is not a subject of this appeal.

‘don’t walk like that . . . don’t do that . . . don’t touch that,’ and I’m thinking, I can’t believe you’re doing this to him right now.” Dr. Troung noted that “[mother] is very different with [Alyssa]. She is very caring with her and really easy on her.”

On August 22, CSW Perez spoke with Alexander’s therapist, Diane Thorp. Thorp said when she saw Alexander, he was always tired because he cannot get sleep at mother’s house. Alexander reported to Thorp the following: (1) mother yells at him all the time; (2) he never has time for himself because he is always doing something for mother and his sister; (3) mother told him he has to learn how to take care of his sister because he will have to do so if something happens to mother; and (4) mother never corrects his sister and everything he does is wrong. On one occasion, Thorp observed Alyssa throwing food and hitting Alexander. Mother reprimanded only Alexander. Alexander confided to Thorp that is how it always is. Thorp opined, “I think the way [mother] treats him is a big factor in his Depression. He told me that she yells at him constantly and that he likes to come to therapy because it’s quiet.” She did not consider Alexander to be “safe emotionally” because of the stress mother is causing him.

Similar concerns regarding mother’s treatment of Alexander were voiced by the case manager of the family’s transitional housing and Alexander’s school psychologist. The case manager heard mother and Alexander yelling and cursing at each other. Mother blamed Alexander if there was a problem. An employee reported to the manager that she heard mother threaten to send Alexander to the hospital if he did not behave. Both the case manager and psychologist noted that Alyssa can do no wrong in mother’s eyes; however, mother is constantly disappointed in Alexander. As a result, he always looked sad and depressed.

In a follow-up interview, Alexander told Perez that he was really tired. He cannot sleep because he wakes up at night and worries “about stuff like school and my mom.” According to Alexander, mother told him she was pregnant and said, “she doesn’t know if she can keep it because the medication she takes might hurt the baby.” He said he feels like he has to look after his sister because mother told him he has “to learn how to take care of her because if [mother] dies then I’m going to have to take care of Alyssa by

myself.” Asked if he felt like he had too much responsibility, he replied, “I don’t know.” Alexander said he told his therapist that mother hits him on his arms, yells at him, and makes him take care of his sister. Mother pressured Alexander into telling her what he had said to his therapist. When he complied, she yelled at him and he started crying. Alexander said mother made sure he took his medication.

On August 24, 2012, Perez completed her interview with mother. When asked about telling Alexander about her pregnancy and his need to learn how to take care of Alyssa, mother said, “I never say that to him. If he knows that it’s because he overheard me talking.” She denied using physical discipline on her son. Mother claimed Alexander was tired because his father allowed him to stay up late during weekend visits. She acknowledged treating Alyssa differently “because she’s younger.”

Perez spoke to Dr. Semmert Dessalegn, who attended the team decision meeting and observed the family. Dessalegn said the concerns regarding the family were outlined during the meeting. Nonetheless, mother “did not understand how she was harming Alexander and that mother needs to address her mental health needs because she is clearly affecting Alexander in a negative way.” She stated he appeared to be suffering from depression and that he might feel better in a new environment away from mother.

On September 10, 2012, the Los Angeles County Department of Children and Family Services (DCFS) filed a petition, alleging mother placed Alexander and Alyssa at risk of serious physical harm by failing to ensure that Alexander received his prescribed psychotropic medication, Alexander was suffering serious emotional damage as a result of mother’s emotional abuse, and mother’s failure to address Alexander’s diagnosed psychiatric needs placed him and Alyssa at risk of physical harm, damage, danger, and medical neglect. (§ 300, subds. (b), (c) & (j).)

On September 10, the court detained Alexander and placed him with his father, William R. (father). Alyssa was placed with mother. Mother was granted monitored visits with Alexander. DCFS was ordered to provide the family with maintenance services and mother with low cost referrals for counseling. Alexander was to be enrolled in counseling. The matter was set for a jurisdictional hearing.

In the jurisdiction/disposition report, the investigating CSW interviewed Alexander, mother, and father with respect to the allegations in the petition.

Alexander stated that his mother usually gave him his medication, saying she failed to “a couple times.” He believed the medication helped him because he is “in a better mood.” He noted that mother helps him often, but that she sometimes is “not in a good mood.” When she gets angry, she yells and curses at him. Alexander believed that mother gave more attention to his sister than to him. The CSW asked him why he had to go to the hospital recently. The child replied, “Because I was really angry.” Explaining why he was angry, he said, “I was angry about my mom and how she’s not really paying attention to me.” Alexander gave the same reason as to why he had thoughts of hurting himself. He was not sure if he wanted to return to mother’s house.

Mother told the CSW that the allegation regarding her failure to give Alexander his medication was “completely untrue.” She asked, “Why would I take him to therapy and the psychiatrist if I’m not going to give him his meds[?]” Mother believed the medication was helping her son. As to the allegation that mother emotionally abused Alexander, she said, “I think that I don’t use harsh language toward Alex at all. I’m loud when I talk. I have a naturally loud voice, it’s not yelling.” She stated she thinks others have the opinion that she is yelling and using harsh words, but she is “just very straightforward,” and “Alex knows the difference.” Mother acknowledged she had a bad habit of cursing, but denied cursing at the children or calling them names. She said she praised Alexander and gave a couple of examples when she had done so. She thanked him for helping out at home. Mother believed she and Alexander were bonded and had a “very close” relationship; however, she conceded that a lot had changed since Alyssa was born. But she denied showing more affection to her daughter than to Alexander. Mother said Alexander’s behavior is “constantly bad” and “he’s physically abusive of Alyssa,” thus requiring her to correct him.

Regarding Alexander’s recent hospitalization, mother stated “things had escalated at home” with respect to his aggressiveness toward her and Alyssa. Mother did not believe Alexander’s therapy was helping him, so she took him to her psychiatrist, who

recommended that Alex be hospitalized. She thought Alexander was aggressive toward Alyssa because mother contracted a life threatening disease while carrying Alyssa and opined that her son's problem was exacerbated by the violence promoting environment at father's house.

Mother denied ever asking Alexander about what he discussed in therapy. When informed that father had told the CSW that while in court she asked Alexander what he had said to his attorney, mother conceded she had done so. She stated she was "not trying to pry" and was "not thinking" when she asked.

Mother acknowledged that she was diagnosed with bi-polar disorder a year earlier and takes medication for the condition. Her mental health issues cause her to "lack[] motivation."

Mother gave the CSW a letter from Alyssa's occupational therapist, who stated that home visits are part of the therapy. He has seen a "happy, close relationship, and bond between mother, daughter, and son. [Mother] provides a secure environment for both of her children, and I have observed that both children are always clean and properly groomed. She talks to Alyssa and Alex with a constructive tone of voice and seems to make all efforts to effectively correct them rather than to criticize them when they make mistakes. . . . She truly demonstrates a warm home environment."

Mother also provided the CSW with a letter from her therapist at an outpatient clinic. The therapist had treated mother during the past year and observed that mother took Alexander to the hospital upon the therapist's advice. Mother had adhered to her treatment program to the best of her ability and was compliant with respect to her medication. Despite receiving no help from her children's fathers, she had done the best she could for her children. The therapist did not believe taking the children from mother was the answer.

Father reported that mother has spoken to Alexander in a demeaning way and uses "harsh language" with the child. Although Alexander has no behavioral issues while in father's care, mother tells father that Alexander is "very aggressive and disruptive." Father said he has personally heard Alexander and mother "cussing" at one another when

he has called the home. Father stated he has heard mother say to the child: “Sit the fuck down. Shut the fuck up. Get your ass over here. Get your ass in the corner.” Father heard her threaten to “beat his (Alexander’s) ass” and to send him away to father’s.

The CSW provided her assessment as follows: “[I]t is clear that the child Alexander is suffering from symptoms of depression related to his interactions with his mother, as evidenced by his statements in both the Detention and PRC reports.” Alexander told the CSW “explicitly that his negative emotions that were the cause of his recent hospitalization were in response to interactions he had with his mother. This indicates the need for Alexander to be placed out of the mother’s care in order to ensure his safety and in order to ensure that the child’s suicidal ideation can be appropriately managed.” The CSW was concerned that mother’s report of Alexander’s aggressive and disruptive behavior was “significantly inflated from what all other professionals have experienced in working with Alexander.” The CSW believed one of the reasons for this exaggeration may be that mother was making the child the “scapegoat” for her inability to meet his needs. She wrote that support for this theory was provided by mother’s misrepresentation of the facts with respect to father’s place in the child’s life.

In a last minute information report to the court, the CSW wrote that it appeared mother was giving Alexander his prescribed medication while he was in her care.

At the October 23 jurisdictional hearing, Diane Thorp, Alexander’s therapist, testified. She conducted individual counseling sessions with him from April to September of 2012. Thorp stated that Alexander suffered from severe emotional distress. He was very depressed, sad, lethargic and, sometimes, argumentative. Alexander told Thorp that it was difficult for him to be yelled at or hit by mother. Thorp became aware that mother required Alexander to tell her what took place during therapy sessions. When she discussed this fact with mother, mother’s response was that his disclosures were inaccurate. Mother told Thorp that she hit Alexander only when she needed to stop him from hitting her or her sister.

Thorp opined that if Alexander did not receive further treatment, he would be at risk of harm. His level of distress had been so great during their sessions that it was very

unlikely his condition improved in the month since she had last seen him. Thorp believed that Alexander's relationship with mother was "a big contributing factor" to his emotional problems.

The court dismissed the (b)(1) (failure to give Alexander his medication) and j(1) allegations (risk of harm to Alyssa) and sustained the (c)(1) count, finding that mother caused Alexander to suffer emotional abuse and continued to do so. Alexander was ordered placed with father and the case was transferred to San Bernardino County.

This appeal followed.

DISCUSSION

"[A] minor may be adjudged a dependent (§§ 300, 360, subd. (d)) if the juvenile court finds, by a preponderance of evidence (§ 355, subd. (a)) . . . the child is suffering serious emotional damage because of a parent's or guardian's conduct or because there is no parent or guardian capable of providing appropriate care. ([§ 300], subd. (c)) . . .)" (*In re Ethan C.* (2012) 54 Cal.4th 610, 624.) Mother correctly observes that DCFS proceeded on the theory that she was the cause of Alexander's emotional problems. Thus, DCFS had the burden of proving: "(1) serious emotional damage as evidenced by severe anxiety, depression, withdrawal or untoward aggressive behavior or a substantial risk of severe emotional harm if jurisdiction is not assumed; (2) offending parental conduct; and (3) causation." (*In re Brison C.* (2000) 81 Cal.App.4th 1373, 1379 (*Brison C.*)).

Mother does not dispute that at the time of the hearing, Alexander was suffering from an emotional condition that met the terms of section 300, subdivision (c). Instead, she contends there was insufficient evidence demonstrating that she was the cause of his condition or that her behavior subjected him to a substantial risk of future harm.

DCFS presented the following evidence: (1) Alexander was hospitalized as a result of his threats to do himself harm; (2) the child acknowledged that his "anger" led to his threats; (3) his "anger" was caused by mother's habits of constantly yelling at him,

hitting him, and paying attention only to his younger sister; (4) mother pressured Alexander into divulging what he said in therapy sessions and then yelled at him for disclosing such information, causing him great distress; (5) professionals, including Alexander's therapist, opined that mother's relationship with Alexander was causing his emotional distress; and (6) mother disputed that she had treated Alexander in an untoward manner, denied that she yelled at him for no reason, or asked him about his therapy sessions, and claimed that she occasionally disciplined him because he was aggressive toward her and his younger sister.

Mother argues the evidence showed, at most, that she "had some 'run-of-the-mill flaws' in her parenting style." We disagree. The expert testimony established that if Alexander's account of mother's behavior was credited, her conduct was the cause of his severe emotional distress. Mother chooses only to dispute her son's account of their relationship. However, "[w]e do not reweigh the evidence, evaluate the credibility of witnesses, or resolve evidentiary conflicts. [Citation.] The judgment will be upheld if it is supported by substantial evidence, even though substantial evidence to the contrary also exists and the trial court might have reached a different result had it believed other evidence. [Citation.]" (*In re Dakota H.* (2005) 132 Cal.App.4th 212, 228.)

Additionally, mother asserts the evidence failed to establish she was the cause of Alexander's emotional problems. Quoting Alexander's therapist's testimony, she argues DCFS proved only that she was a "contributing factor" to the child's emotional issues. Mother parses the testimony too finely and ignores the bulk of the evidence that was presented. DCFS's showing established that mother's abusive treatment of Alexander caused him to suffer serious emotional damage. Alexander said so and the experts agreed. Several independent witnesses, including Alexander's psychiatrist, confirmed Alexander's description of his relationship with mother. The supervisor of the transitional housing where the family lived heard mother yell and curse at Alexander, and an employee of the facility heard mother threaten to send the boy to the hospital if he did not behave. Alexander's psychiatrist was taken aback by mother's constant criticism of him while in the psychiatrist's office. Dr. Dessalegn, who observed the family at a team

decision meeting, said mother did not understand that her treatment of Alexander was harming the child because “she [was] clearly affecting [him] in a negative way.” She opined further that he was suffering from depression and would possibly benefit from being away from mother. Diane Thorp told DCFS that Alexander was not “safe emotionally” because of the stress mother is causing him. We have little difficulty concluding that substantial evidence supports the dependency court’s finding that mother was the cause of Alexander’s emotional problems. And, significantly, her refusal to accept that she might have any responsibility for Alexander’s condition shows that he would be at risk of serious emotional damage in her custody.

Mother’s reliance on *Brison C.*, *supra*, 81 Cal.App.4th 1373, and *In re Alexander K.* (1993) 14 Cal.App.4th 549 is misplaced. In *Brison C.*, children services did not prove that the child was seriously emotionally damaged or in danger of becoming so unless jurisdiction was assumed. (*Brison C.*, *supra*, 81 Cal.App.4th at pp. 1379-1380.) Here, mother does not dispute that Alexander is suffering serious emotional damage as defined by section 300, subdivision (c). In *Alexander K.*, there was no evidence that the father had engaged in any abusive behavior. (14 Cal.App.4th at pp. 559-560.) As discussed, mother’s abuse of Alexander was established.

The dependency court’s jurisdictional order was properly issued. Mother does not contest the dispositional order.

DISPOSITION

The jurisdictional and dispositional orders are affirmed.

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SUZUKAWA, J.

We concur:

WILLHITE, Acting P. J.

MANELLA, J.